

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Lemar Gant,
Petitioner
v.
Brian Williams, et al.,
Respondents

2:16-cv-00528-JAD-NJK

Order Directing the Clerk to File and Serve the Petition, Denying Application to Proceed *in forma pauperis* as Moot, and Denying Motion for Appointment of Counsel

[ECF Nos 1, 2]

Having reviewed pro se Nevada state-prison inmate Lemar Gant's § 2254 petition, I find that it warrants service on respondents, so I will instruct the Clerk to file his petition and electronically serve it on respondents. Because Gant has already paid the \$5 filing fee, I deny his application to proceed *in forma pauperis* as moot. Finally, I deny Gant's motion for appointment of counsel. There is no constitutional right to counsel in federal habeas corpus proceedings,¹ but a court may appoint counsel when the "interests of justice" so require. Gant's petition is sufficiently clear, and the issues in this case are not so complex that appointment of counsel is necessary. I therefore deny Gant's motion.

Conclusion

19 Accordingly, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Gant's
20 **application to proceed *in forma pauperis* [ECF No. 1] is DENIED as moot.**

IT IS FURTHER ORDERED that Gant's **motion for appointment of counsel [ECF No. 2]** is **DENIED**.

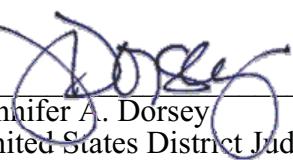
23 The Clerk of Court is instructed to FILE and electronically SERVE the petition [ECF No. 1-
24 1] on respondents and to add Attorney General Adam Paul Laxalt, Attorney General for the State of
25 Nevada, as counsel for respondents.

²⁷ ²⁸ ¹ *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993).

1 IT IS FURTHER ORDERED that respondents must file an answer or otherwise respond to
2 the petition by **November 7, 2016**. In their answer or other response, respondents must address all
3 of Gant's claims and must raise all potential affirmative defenses, including lack of exhaustion and
4 procedural default. **Successive motions to dismiss will not be entertained.** If respondents file an
5 answer, it must comply with the requirements of Rule 5 of the Rules Governing § 2254 Proceedings
6 in the United States District Courts. Gant will have 45 days from service of the answer to file a
7 reply.

8 IT IS FURTHER ORDERED that any state-court record exhibits filed by respondents must
9 be filed with a separate index of exhibits identifying each exhibit by number or letter. A hard copy
10 of all state-court record exhibits must be forwarded to the staff attorneys in the Reno Division of the
11 Clerk of Court.

12 Dated this 23rd day of September


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